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C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 000107

SIPDIS

DEPARTMENT FOR EUR(JONES), EUR/SCE(FOOKS/STINCHCOMB); NSC
FOR HELGERSON/WILSON; OSD FOR BEIN

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TAGS: [PREL](#) [PGOV](#) [PINR](#) [KDEM](#) [BK](#)

SUBJECT: BOSNIA - PRUD III YIELDS PROGRESS ON BRCKO AND
SPARKS FIRESTORM ON CONSTITUTIONAL REFORM

REF: A. SARAJEVO 70

[B](#). 08 SARAJEVO 1911

[C](#). 08 SARAJEVO 1899

[D](#). 08 SARAJEVO 1728

Classified By: Ambassador Charles English. Reason 1.4(b) and (d).

[1](#). (C) SUMMARY: Alliance of Independent Social Democrats (SNSD) President and Republika Srpska (RS) PM Milorad Dodik, Party for Democratic Action (SDA) President Sulejman Tihic, and Croatian Democratic Union-BiH (HDZ-BiH) President Dragan Covic met on January 26 to discuss their ongoing efforts to implement the Prud Agreement. The three men signed four documents dealing with aspects of Prud, including 1) state property; 2) refugees and displaced persons; 3) Brcko, and; 4) constitutional reform. On Brcko, the three men, including Dodik, endorsed adoption of constitutional amendment as the vehicle for addressing the Brcko element of Peace Implementation Council's 5-plus-2 agenda. This constitutes clear progress on an issue of importance to the U.S. On state property, the Prud III agreement papered over differences between Dodik and Tihic that have plagued resolution of this issue since last November when Prud I was signed. These developments were overshadowed the news that the three men had signed a document on "basic principles" of constitutional reform that called for the division of Bosnia into four territorial units. The hollowness of the "four units agreement" was immediately apparent when Tihic and Dodik took to the airwaves and described its implications in radically different terms. Nonetheless, Tihic was bashed by Bosnian member of the Tri-Presidency Haris Silajdzic for "betraying Bosniaks" by agreeing to the further division of the country. Though Tihic took a beating on constitutional reform he actually made fewer concessions and took less risk than his critics asserted. His challenge now will be to weather the political storm and produce results in other areas. Our immediate focus will be to take advantage of the progress on Brcko by finalizing the text of the Brcko amendment and securing a parliamentary proponent for it. END SUMMARY

Another Prud Meeting, Another Set of Agreements

[2](#). (SBU) SNSD President and RS PM Dodik, SDA President Tihic, and HDZ-BiH President Covic met in Banja Luka on January 26 to discuss implementation of the Prud Agreement, which the three men signed on November 8, 2008 (Ref D). This was the second time the three men have met to discuss Prud implementation, which has thus far produced meager results. Though the House of Representatives passed on January 22 a state budget in line with the Prud Agreement, other elements

of Prud remain stalled. Dodik, Tihic and Covic sought to use their January 26 meeting to reenergize Prud, and as at their December 22 meeting (Ref C), the three men signed several additional documents designed to clarify (and presumably add substance to) their earlier understandings.

13. (SBU) Dodik, Tihic and Covic signed four documents in total. The first dealt with state property and asserted, among other things, that "the property that is the subject of the Law on State Property of BiH is the property of Bosnia and Herzegovina(" and "(will be registered/titled per the Law and the (Prud) Agreement." The second dealt with refugees and displaced persons, an issue connected by Prud to adoption of census legislation. This document endorsed asking the Council of Ministers to seek a 500 million KM loan to support refugees and displaced persons. The third dealt with constitutional reform. It set out "basic principles" for constitutional reform. The fourth and final document dealt with Brcko, and it endorsed adoption of constitutional amendment to resolve outstanding issues necessary for Supervision to end there.

Brcko: Clear Progress, But Hurdles Ahead

14. (C) The agreement on Brcko represents clear progress on one of the toughest outstanding items of the PIC's 5-plus-2 agenda. Dodik has now publicly endorsed a constitutional amendment, which has always been the best, if not only legal means to: a) codify Brcko's status within the Constitution, and b) provide the District with a mechanism for securing

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access to the Constitutional Court. That said, Dodik, Tihic, and Covic have proposed changes to the text drafted by PDHR Gregorian and his legal team (Ref A). OHR's initial assessment of these changes is that they are minor, and are not show stoppers. Nonetheless, OHR will propose some technical changes to the amendment proposed by the three men.

PDHR Gregorian has already discussed some of these with RS National Assembly Speaker Radojicic, who offered his personal view that they should not present a problem. Working with OHR, we hope to finalize the text of the Brcko amendment by the end of the week and secure agreement on a parliamentary proponent during the week of February 2. Ideally the amendment would be adopted prior to the March 26-27 PIC, but this may be a difficult target to hit.

State Property: No Progress

15. (C) The December 22 Prud Annex on State Property (Ref C) set a January 31 deadline for resolving the issue, but there has been no progress. This biggest stumbling block has been Dodik's decision to walk back a commitment that all property could first be registered as state property prior to its distribution to lower levels of government -- something Dodik claims he never agreed to. Tihic has insisted from the beginning that ownership of all state property must first vest with the state before its transfer to lower levels of government, and both he and Covic maintain Dodik accepted this on December 22. (Note: Prud provided that the state would keep all property required for the work of state institutions, but that all other property would become the property of the entities, cantons, and municipalities. End Note) The January 26 agreement is silent on the registration issue, and more generally, fails to provide the State Property Commission, which is charged with drafting the Law on State Property, with the clear guidance it requires to complete its work.

A Bosnia of Four Territorial Units

16. (SBU) The agreements on Brcko, state property, and funding for refugees and displaced persons were overshadowed by the

agreement on "basic principles" for constitutional reform signed by Dodik, Tihic, and Covic. The principles include that Bosnia is "a sovereign state within internationally recognized borders" and "a democratic, social, secular state founded on the rule of law and the principle of the division of power among legislative, executive, and judicial" branches of government. Building on previous agreements, the January 26 principles acknowledge that Bosnia is a "decentralized state, organized on three levels of power," but explosively is calls for a Bosnia "composed of four territorial units," and this is what dominated the January 27 headlines.

17. (SBU) Bosniak member of the Tri-Presidency and Tihic rival Haris Silajdzic immediately accused Tihic of "betraying Bosniaks" by accepting the further division of Bosnia into ethnically-based entities; a charge that was also made by a banner headline in the Sarajevo-based daily Oslobodjenje. Tihic squared off with Silajdzic on a popular Federation TV news magazine on January 26 and rejected the charge, noting that he envisioned Bosnia divided into four units centered around Banja Luka (including Bihac), Tuzla (including parts of the current Eastern RS), Mostar, and Sarajevo. RS-based papers offered no interpretation of the "four units agreement" and stuck to factual reporting it, but Dodik, commenting on BN Television, emphasized that the RS was one of the four units envisioned by the agreement. The Bosnian edition of the pro-Covic daily Vecernji List hailed the agreement as "historic."

Comment

18. (C) Though Tihic took a beating from Silajdzic and part of the Bosniak press for allegedly giving away the store on constitutional reform, he actually made fewer concessions and took less risk than his critics assert. He advanced the ball on Brcko, held his ground on state property (i.e., he did not concede the registration issue), and did not sign up to language that explicitly recognized the RS as one of Bosnia's four future territorial units. He has time to deliver

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pro-Bosniak resolutions on the non-constitutional reform elements of Prud before any serious constitutional reform discussions take place. At that point, he can always walk away from four unit formula that leaves the RS in tact. Tihic's challenge is weathering the short-term political storm created by the "four unit deal," which is an essentially pre-condition for progress on other issues. There are indicators that he will be able to do so. It is noteworthy that the largest circulation, pro-Bosniak daily Dnevni Avaz published a January 27 an editorial supporting Tihic. Several members of the anti-Tihic wing of his party told us on January 27 that Tihic continues to enjoy the party's full-backing.

19. (C) Dodik made a clear concession on Brcko, held his ground on state property (i.e., he, too, did not concede the registration issue), and will argue -- we suspect convincingly to his constituents -- "four units" means the RS plus whatever three units the Bosniaks and Croats work out among themselves. Our immediate goal must be to maintain our hard won momentum on Brcko. We want to lock-in the amendment now and insulate Brcko from political fallout from potential problems with other elements of Prud. According to a senior advisor to Serb member of the Tri-Presidency Radmanovic, Dodik and his party are now interested in completing the remaining elements of the PIC's 5-plus-2 agenda as quickly as possible. According to this contact, the HighRep's abrupt departure is responsible for this change of heart. SNSD's aim is to prove conclusively that Bosnia no longer needs a HighRep or OHR. We will test this on Brcko, but SNSD's new commitment to completing 5-plus-2 may not run so deep, however, given Dodik's refusal to budge on state property.

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